National Labor Relations Board



Weekly Summary of NLRB Cases

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CASES SUMMARIZED VISIT <u>www.nlrb.gov</u> FULL TEXT

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Legal Services of Northern California (20-CA-32863; 352 NLRB No. 66) Sacramento, CA May 16, 2008. The Board found that the Respondent violated Section 8(a)(5) of the Act by refusing to provide the Union with a requested copy of a separation agreement between the Respondent and employee Kimberly Dovey. [HTML] [PDF]

The administrative law judge rejected the Respondent's argument that the separation agreement was a confidential document on the grounds that the agreement's confidentiality provision was binding only on Dovey, and not the Respondent. However, the judge concluded that the Respondent did not violate the Act by refusing to produce the separation agreement, finding that the separation agreement's sole purpose was to settle a potential tort claim between Dovey and the Respondent.

The Board agreed with the judge's rejection of the Respondent's confidentiality defense, but reversed the judge, finding instead that the Respondent violated the Act by refusing to provide the Union with a copy of the separation agreement. The Board acknowledged that certain agreements between employees and employers are outside of the purview of a union's representational role, such as private tort settlements. The Board found, however, that the separation agreement was not solely a private agreement between Dovey and the Respondent because it also served as a waiver of Dovey's rights under the collective-bargaining agreement. The Board concluded that the separation agreement was relevant to the Union's role of collective-bargaining representative and that the Respondent violated Section 8(a)(5) by refusing to provide it.

(Chairman Schaumber and Member Liebman participated.)

Charge filed by Northern United Legal Assistance Workers, National Organization of Legal Services Workers, UAW Local 2320; complaint alleged violation of Section 8(a)(5) and (1). Case submitted to the Division of Judges upon a joint motion of the parties seeking a decision based upon a hearing waiver and formal stipulation of facts signed on April 28, May 25 and 29, 2006. Adm. Law Judge James M. Kennedy issued his decision Aug. 7, 2006.

Pennant Foods Co., a Wholly-Owned Subsidiary of CS Bakery Holdings, Inc., a Wholly-Owned Subsidiary of Chef Solutions Holdings, LLC (34-CA-11385, et al., and 34-RC-1925; 352 NLRB No. 62) North Haven, CT May 12, 2008. The Board affirmed the administrative law judge's findings that the Respondent violated Section 8(a)(1) of the Act by: (1) interrogating employees; (2) threatening employees with loss of employment and closure of the facility if they selected the Union to represent them; and (3) threatening employees with loss of benefits if they selected the Union to represent them. The Board additionally affirmed that the Respondent violated Section 8(a)(3) by: (1) devising and applying a light duty policy to deny a pro-union employee's reinstatement; (2) devising and applying a machine operator job description to deny a pro-union employee's reinstatement; and (3) denying employee Lee Mabry reinstatement following a workers' compensation leave of absence. Further, the Board affirmed that the Union was precluded from seeking a Gissel bargaining order, and that several special remedies were warranted. Finally, the Board denied the General Counsel's motion to strike Respondent's exceptions, but noted that it properly considered only arguments made in the Respondent's brief. [HTML] [PDF]

(Chairman Schaumber and Member Liebman participated.)

Charges filed by Auto Workers; complaint alleged violations of Section 8(a)(1) and (3). Hearing at Hartford over 8 days between Oct. 25, 2006 and Jan. 10, 2007. Adm. Law Judge Michael A. Marcionese issued his decision on Sept. 17, 2007.

LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

Aramark Educational Services, Inc., Aramark d/b/a Harry M. Stevens, Inc., Aramark Sports, Inc. (UNITE Here Local 26) Boston, MA May 13, 2008. 1-CA-43486, et al.; JD-24-08, Judge Wallace H. Nations.

Teamsters Local 705, affiliated with International Brotherhood of Teamsters (Midwest Moving & Storage) Elk Grove Village, IL May 14, 2008. 13-CB-18814; JD-28-08, Judge David I. Goldman.

APL Logistics Warehouse Management Services, Inc. (Chemical Workers Local 692C/Food & Commercial Workers) Shepherdsville, KY May 16, 2008. 9-CA-43431, et al.; JD(ATL)-17-08, Judge John H. West.

LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following cases, the Board considered exceptions to and adopted Reports of Regional Directors or Hearing Officers)

DECISION AND ORDER DIRECTING HEARING [on Intervenor's objection]

Paper Service, Inc., New York, NY, 2-RC-23253, May 13, 2008 (Chairman Schaumber and Member Liebman)

DECISION [setting aside election conducted on Feb. 17-19, 2008] AND DIRECTION OF THIRD ELECTION

UPS Freight, Inc., Kansas City, KS, 17-RC-12497, May 13, 2008 (Chairman Schaumber and Member Liebman)

In the following cases, the Board denied requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

Force Protective Services, Inc., Brooklyn, NY, 29-RC-11508, May 13, 2008 (Chairman Schaumber and Member Liebman)

Miscellaneous Board Decisions and Orders

DECISION ON REVIEW [granting Petitioner's request for review of Regional Director's administrative dismissal of petition, reinstating petition, and remanding case to Regional Director]

Lacosta, Inc., Deerfield, IL, 13-RC-21716, May 13, 2008 (Chairman Schaumber and Member Liebman)

ORDER DENYING [Petitioner's] MOTION FOR RECONSIDERATION [of Decision and Certification of Representative dated April 10, 2008]

Clark Nursing and Rehabilitation Center, Clark, NJ, 22-RC-12867, May 13, 2008 (Chairman Schaumber and Member Liebman)
